



**ETIENNE BEDEKER**  
I N C O R P O R A T E D  
Attorneys • Notaries • Conveyancers

## **ANTE NUPTIAL CONTRACT**

Please consider which type of regime under which you wish to marry carefully as it is expensive to alter your marital regime after marriage. Please ask us to advise you on which option would best suit your financial and other circumstances

### **1. Community of Property**

You are automatically married in Community of Property should you not enter into an Ante nuptial contract. Your estates are joined under this regime which means that all assets are jointly owned. Unfortunately, all debts incurred by one partner are debts of the joint estate which means that you may find yourself liable for your partner's debts.

Under this regime, your partner's written consent is required in the case of purchase of immovable property; cars or financial investments. Likewise you may not enter into a credit contract or bind yourself as a surety without your partner's written consent.

### **2. Out of Community of Property**

By signing an Ante nuptial contract before you get married your estates are separated. The husband is the sole owner of his assets and is responsible for his liabilities and the wife also has her own assets and liabilities. They will never be responsible for each other's debts. Each Party may enter into contracts without the written consent of the other party. When signing an ANC the parties have 2 options

#### **2(a) WITHOUT THE ACCRUAL SYSTEM**

This means the parties will never share assets not before or after the marriage.

#### **2(b) WITH THE ACCRUAL SYSTEM**

The parties will list their nett asset values (assets minus liabilities) at date of marriage and on divorce or death the nett asset value of each party will be calculated again and the difference between the nett starting values and the nett ending values will reflect each parties accrual during the marriage.

The party with the larger accrual will then have to pay the person with the smaller accrual 50 % of the difference between the accruals.

